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**TITLE 71 INDIANA HORSE RACING COMMISSION**

**Emergency Rule**  
LSA Document #22-305(E)

**DIGEST**

Amends [71 IAC 7.5-5-1](#) regarding horses ineligible. Amends [71 IAC 7.5-6-5](#) regarding post to finish. Amends [71 IAC 8-3-5](#) regarding out of competition testing. Amends [71 IAC 8.5-2-5](#) regarding out of competition testing. Effective October 6, 2022.

[71 IAC 7.5-5-1](#); [71 IAC 7.5-6-5](#); [71 IAC 8-3-5](#); [71 IAC 8.5-2-5](#)

SECTION 1. [71 IAC 7.5-5-1](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 7.5-5-1](#) Horses ineligible**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31](#)

Sec. 1. (a) A horse is ineligible to start in a race when:

- (1) it is not stabled on the grounds of the association or present by the time established by the commission;
- (2) for a quarter horse, its breed registration certificate is not on file with the racing secretary or horse identifier, unless the racing secretary has submitted the certificate to the appropriate breed registry for correction, or the information contained on the registration certificate is available to the racing secretary, or the racing secretary's designee, through the electronic registration system, however:
  - (A) the stewards, for good cause, may waive this requirement if the horse is otherwise correctly identified to the satisfaction of the stewards and identifier;
  - (B) if the electronic registration system fails for any reason, the stewards may require presentation of a horse's registration certificate prior to a horse being entered or raced in Indiana;
  - (C) the stewards may at any time require presentation of a horse's registration certificate; and
  - (D) a horse may not receive a preference date prior to entry unless the horse's registration paper is on file with the racing secretary;
- (3) it is not fully identified and tattooed on the inside of the upper lip or microchipped or identified by any other method approved by the appropriate breed registry and the commission;
- (4) if a thoroughbred, it is not duly registered and named at the registry office of the Jockey Club (New York), or, if a quarter horse, it is not duly registered with the American Quarter Horse Association;
- (5) it has been fraudulently entered or raced in any jurisdiction under a different name, with an altered registration certificate, or altered lip tattoo or microchip or other identification method approved by the appropriate breed registry and the commission;
- (6) it is wholly or partially owned by a disqualified person or a horse is under the direct or indirect training or management of a disqualified person;
- (7) it is wholly or partially owned by the spouse of a disqualified person or a horse is under the direct or indirect management of the spouse of a disqualified person, in such cases, it being presumed that the disqualified person and spouse constitute a single financial entity with respect to the horse, which presumption may be rebutted;
- (8) the stakes or entrance money for the horse has not been paid, in accordance with the conditions of the race;
- (9) its name appears on the starter's list, stewards' list, or veterinarian's list;
- (10) it is a first time starter and has not been approved to start by the starter;
- (11) it is owned in whole or in part by an undisclosed person or interest;
- (12) it lacks sufficient official published workouts or past race performances;
- (13) it has been entered in a stakes race and has subsequently been transferred with its engagements unless the racing secretary has been notified of such prior to the start;
- (14) it is subject to a lien, which has not been approved by the stewards and filed with the horsemen's bookkeeper;
- (15) it is subject to a lease not filed with the stewards;
- (16) it is not in sound racing condition;
- (17) it has had a posterior digital neurectomy (heel denerving), which has not been approved by the official veterinarian;
- (18) it has been trachea tubed to artificially assist breathing;

- (19) it has been blocked with alcohol or otherwise drugged or surgically denerved to desensitize the nerves above the ankle;
- (20) it has impaired eyesight in both eyes;
- (21) it is barred or suspended in any recognized jurisdiction;
- (22) it does not meet the eligibility conditions of the race;
- (23) its owner or lessor is in arrears for any stakes fees, except with approval of the racing secretary;
- (24) its owners, lessors, lessees, or trainer have not completed the licensing procedures required by the commission;
- (25) it is by an unknown sire or out of an unknown mare;
- (26) there is no negative test certificate for equine infectious anemia issued within the preceding twelve (12) months on file with the association;
- (27) if a quarter horse, it has shoes (racing plates) that have toe grabs with a height greater than four (4) millimeters (fifteen thousand seven hundred forty-eight hundred-thousandths (0.15748) inches), or any other traction device on the front hooves while racing or training on all racing surfaces;
- (28) if a thoroughbred, it has shoes (racing plates) which have ~~toe grabs~~ **full rims** with a height greater than two (2) millimeters (seven thousand eight hundred seventy-four hundred-thousandths (0.07874) inches), bends, jar caulks, stickers, or any other traction device on the front hooves while racing or training on ~~all any~~ racing surfaces, **or if it has shoes (racing plates) that have toe grabs with a height greater than four (4) millimeters (fifteen thousand seven hundred forty-eight hundred-thousandths (0.15748) inches) or any other traction device on the hind limbs while racing or training on any racing surface;**
- (29) it has reached the age of twelve (12) years;
- (30) it is a maiden that has reached the age of six (6) years or older with fewer than six (6) starts;
- (31) the race date is within ten (10) days of having extracorporeal shock wave or radial pulse wave therapy; or
- (32) it has not made an official start in the previous two hundred forty (240) days, or it is a first time starter that has reached the age of four (4) years, and it has not fulfilled the requirements set forth in [71 IAC 7.5-4-1\(b\)](#).

(b) The stewards may consider extenuating circumstances in determining ineligibility of a horse with respect to subsection (a)(1) and (a)(2).

(Indiana Horse Racing Commission; [71 IAC 7.5-5-1](#); emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2870, eff Jul 1, 1995; emergency rule filed Aug 9, 1995, 10:30 a.m.: 18 IR 3408; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: [20070404-IR-071070030RFA](#); emergency rule filed Jul 23, 2007, 9:16 a.m.: [20070808-IR-071070461ERA](#), eff Jul 18, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-461(E) was filed with the Publisher July 23, 2007.]; errata filed Aug 14, 2007, 1:28 p.m.: [20070829-IR-071070461ACA](#); emergency rule filed Mar 12, 2008, 1:53 p.m.: [20080326-IR-071080191ERA](#), eff Mar 11, 2008 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #08-191(E) was filed with the Publisher March 12, 2008.]; emergency rule filed Mar 19, 2009, 11:07 a.m.: [20090401-IR-071090195ERA](#), eff Mar 12, 2009 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #09-195(E) was filed with the Publisher March 19, 2009.]; emergency rule filed Mar 23, 2010, 1:27 p.m.: [20100331-IR-071100170ERA](#); emergency rule filed Mar 8, 2012, 11:43 a.m.: [20120321-IR-071120117ERA](#); emergency rule filed Jul 5, 2012, 2:14 p.m.: [20120718-IR-071120402ERA](#); readopted filed Nov 26, 2013, 11:25 a.m.: [20131225-IR-071130345RFA](#); readopted filed Aug 28, 2019, 1:23 p.m.: [20190925-IR-071190319RFA](#); emergency rule filed Dec 5, 2019, 1:56 p.m.: [20191211-IR-071190646ERA](#); emergency rule filed Jun 1, 2020, 1:57 p.m.: [20200610-IR-071200295ERA](#); emergency rule filed Mar 3, 2022, 3:55 p.m.: [20220316-IR-071220070ERA](#); emergency rule filed Oct 6, 2022, 3:34 p.m.: [20221012-IR-071220305ERA](#))

SECTION 2. [71 IAC 7.5-6-5](#) IS AMENDED TO READ AS FOLLOWS:

### **[71 IAC 7.5-6-5](#) Post to finish**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31](#)

Sec. 5. (a) The following shall apply to starting the race:

- (1) The starter is responsible for assuring that each participant receives a fair start.
- (2) If, when the starter dispatches the field, any door at the front of the starting gate stalls should not open properly due to a mechanical failure or malfunction or should any action by any starting personnel directly cause a horse to receive an unfair start, the stewards may declare the horse a nonstarter.
- (3) Should a horse, not scratched prior to the start, not be in the starting gate stall thereby causing it to be left

when the field is dispatched by the starter, the horse shall be declared a nonstarter by the stewards.

(4) Should an accident or malfunction of the starting gate, or other unforeseeable event compromise the fairness of the race or the safety of race participants, the stewards may declare individual horses to be nonstarters, exclude individual horses from one (1) or more pari-mutuel pools, or declare a no contest and refund all wagers except as otherwise provided in the rules involving multi-race wagers.

(b) The following shall apply to interference, jostling, or striking during the race:

(1) A jockey shall not ride carelessly or willfully so as to permit the jockey's mount to interfere with, impede, or intimidate any other horse in the race.

(2) No jockey shall carelessly or willfully jostle, strike, or touch another jockey or another jockey's horse or equipment.

(3) No jockey shall unnecessarily cause the jockey's horse to shorten its stride so as to give the appearance of having suffered a foul.

(c) The following shall apply to maintaining a straight course during the race:

(1) When the way is clear in a race, a horse may be ridden to any part of the course, but if any horse swerves, or is ridden to either side, so as to interfere with, impede, or intimidate any other horse, it may be a foul.

(2) The offending horse may be disqualified if, in the opinion of the stewards, the foul altered the finish of the race, regardless of whether the foul was accidental, willful, or the result of careless riding.

(3) If the stewards determine the foul was intentional, or due to careless riding, the jockey may be held responsible.

(4) In a straightaway race, every horse must maintain position as nearly as possible in the lane in which it starts. If a horse is ridden, drifts, or swerves out of its lane in such a manner that it interferes with, impedes, or intimidates another horse, and it may result in the disqualification of the offending horse.

(d) The following shall apply to disqualifications during the race:

(1) When the stewards determine that a horse shall be disqualified for interference, they may place the offending horse behind such horses as in their judgment it interfered with, or they may place it last.

(2) If a horse is disqualified for a foul, any horse or horses with which it is coupled as an entry may also be disqualified.

(3) When a horse is disqualified for interference in a time trial race, for the purposes of qualifying only, it shall receive the time of the horse it is placed behind plus one one-hundredth (1/100) of one (1) second penalty, or more exact measurement if photo finish equipment permits, and shall be eligible to qualify for the finals or consolations of the race on the basis of the assigned time.

(4) Possession of any electrical or mechanical stimulating or shocking device by a jockey, horse owner, trainer, or other person authorized to handle or attend to a horse shall be prima facie evidence of a violation of these rules and is sufficient grounds for the stewards to scratch or disqualify the horse.

(5) The stewards may determine that a horse shall be unplaced for the purpose of purse distribution and time trial qualification.

(e) All horses shall be ridden out in every race. A jockey shall not ease up or coast to the finish, without reasonable cause, even if the horse has no apparent chance to win prize money. A jockey shall give a best effort during a race, and each horse shall be ridden to win.

(f) The following shall apply to use of riding crops during the race:

(1) Although the use of a riding crop is not required, any jockey who uses a riding crop during a race shall do so only in a manner consistent with exerting his/her best efforts to win.

(2) In all races where a jockey will ride without a riding crop, an announcement of such fact shall be made over the public address system.

(3) No electrical or mechanical device or other expedient designed to increase or retard the speed of a horse, other than the riding crop approved by the stewards, shall be possessed by anyone or applied by anyone to a horse at any time on the grounds of the association during the meeting, whether in a race or otherwise.

(4) Riding crops shall not be used on two (2) year old horses before April 1 of each year.

(5) The riding crop shall only be used for safety, correction, and encouragement and be appropriate, proportionate, and professional, taking into account the rules of racing herein. However, stimulus provided by the use of the riding crop shall be monitored so as not to compromise the welfare of the horse.

(6) Use of the riding crop varies with each particular horse and the circumstances of the race.

(7) Except for extreme safety reasons, all riders should comply with the following when using the riding crop:

(A) initially showing the horse the riding crop or tapping the horse with the riding crop down, giving it time to

respond before hitting it;

(B) having used the riding crop, giving the horse a chance to respond before using it again; and

(C) using the riding crop in rhythm with the horse's stride.

(8) Allowing the horse a chance to respond can be:

(A) pausing the use of the riding crop on the horse before resuming again; or

(B) pushing on the horse with a rein in each hand; or

(C) showing the horse the riding crop without making contact; or

(D) moving the riding crop from one **(1)** hand to the other.

(9) At the beginning of each race meet, the stewards shall establish a maximum number of successive strikes before the rider must give the horse a minimum number of successive strides.

(10) Prohibited use of the riding crop includes, but is not limited to, striking a horse:

(A) on the head, flanks, or any other part of its body other than the shoulders or hind quarters, except when necessary to control a horse;

(B) during the post parade or after the finish of the race, except when necessary to control the horse;

(C) excessively;

(D) when the horse is clearly out of the race or has obtained its maximum placing;

(E) persistently even though the horse is showing no response under the riding crop;

(F) causing whip marks, welts, or breaks in the skin; or

(G) striking another person or horse.

(g) After the race, horses will be subject to inspection by an official veterinarian looking for cuts, welts, or bruises in the skin. Any adverse findings shall be reported to the stewards.

(h) The giving of instructions by any licensee that if obeyed would lead to a violation of this rule may result in disciplinary action also being taken against the licensee who gave such instructions.

(i) If a horse leaves the racecourse during a race, it shall be disqualified.

(j) The following shall apply to the order of finish:

(1) The official order of finish shall be decided by the stewards with the aid of the photo finish camera and, in the absence of the photo finish film strip, the video replay. The photo finish and video player are only aids in the stewards' decision. The decision of the stewards shall be final in all cases.

(2) The nose of the horse shall determine the placement of the horse in relationship to other horses in the race.

(k) The following shall apply to returning after the finish:

(1) After a race has been run, the jockey shall ride promptly to the place designated by the stewards, dismount, and report to the clerk of scales to be weighed in. Jockeys shall weigh in with all pieces of equipment with which they weighed out.

(2) If a jockey is prevented from riding to the designated unsaddling area because of an accident or illness to the jockey or the horse, the jockey may walk or be transported to the scales, or may be excused from weighing in by the stewards.

(l) The following shall apply to unsaddling:

(1) Only persons authorized by the stewards may assist the jockey with unsaddling the horse after the race.

(2) No one shall place a covering over a horse before it is unsaddled.

(m) Weighing in:

(1) A jockey shall weigh in at no less than the same weight at which he/she weighed out and if under that weight, and after consideration of mitigating circumstances by the board of stewards, his/her mount may be disqualified from any portion of the purse money.

(2) In the event of a disqualification, all monies wagered on the horse shall be refunded unless the race has been declared official.

(3) A jockey's weight shall include clothing, boots, saddle, and its attachments and any other equipment except the bridle, bit, blinkers, number cloth, and over-girth, reins, and breast collar.

(4) Upon approval of the stewards, the jockeys may be allowed up to three (3) pounds more than published weights to account for inclement weather clothing and equipment.

(5) The post-race weight of jockeys includes any sweat, dirt, and mud that have accumulated on the jockey,

jockey's clothing, jockey's safety equipment, and over-girth. This accounts for additional weight, depending on specific equipment, as well as weather, track, and racing conditions.

(n) The following shall apply to dead heats:

(1) When two (2) horses run a dead heat for first place, all purses or prizes to which the first and second horses would have been entitled shall be divided equally between them. This subdivision applies in dividing all purses or prizes whatever the number of horses running a dead heat and whatever places for which the dead heat is run.

(2) In a dead heat for first place, each horse involved shall be deemed a winner and liable to penalty for the amount it shall receive.

(3) When a dead heat is run for second place and an objection is made to the winner of the race, and sustained, the horses which ran a dead heat shall be deemed to have run a dead heat for first place.

(4) If the dividing owners cannot agree as to which of them is to have a cup or other prize which cannot be divided, the question shall be determined by lot by the stewards.

(o) The following shall apply to time trials:

(1) Except in cases where the starting gate physically restricts the number of horses starting, each time trial shall consist of no more than ten (10) horses.

(2) The time trials shall be raced under the same conditions as the finals. If the time trials are conducted on the same day, the horses with the ten (10) fastest times shall qualify to participate in the finals. If the time trials are conducted on two (2) days, the horses with the first five (5) fastest times on the first day and the horses with the five (5) fastest times on the second day shall qualify to participate in the finals.

(3) If the association's starting gate has less than ten (10) stalls, then the maximum number of qualifiers will correspond to the maximum number of starting gate post positions.

~~(4) If only eleven (11) or twelve (12) horses are entered to run in time trials from a gate with twelve (12) or more stalls, the association may choose to run finals only. If eleven (11) or twelve (12) horses participate in the finals, only the first ten (10) finishers will receive purse money.~~

~~(5) (4)~~ In the time trials, horses shall qualify on the basis of time and order of finish. The times of the horses in the time trial will be determined to the limit of the timer. The only exception is when two (2) or more horses have the same time in the same trial heat, in which case the order of finish shall also determine the preference in qualifying for the finals. Should two (2) or more horses in different time trials have the same qualifying time to the limit of the timer for the final qualifying positions, then a draw by public lot shall be conducted as directed by the stewards.

~~(6) (5)~~ Except in the case of a disqualification, under no circumstances shall a horse qualify ahead of a horse that finished ahead of that horse in the official order of finish in a time trial.

~~(7) (6)~~ Should a horse be disqualified for interference during the running of a time trial, it shall receive the time of the horse it is immediately placed behind plus one one-hundredth (1/100) of one (1) second, or the maximum accuracy of the electronic timing device. No adjustments will be made in the times recorded in the time trials to account for head-wind, tail-wind, off-track, or other conditions.

~~(8) (7)~~ Should a malfunction occur with electronic times on any time trials, finalists from that time will then be determined by official hand timing operated by three (3) official and disinterested persons. The average of the three (3) hand times will be utilized for the winning time unless one (1) of the hand times is clearly incorrect. In such cases, the average of the two (2) accurate hand times will be utilized for the winning time.

*(Indiana Horse Racing Commission; 71 IAC 7.5-6-5; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2872, eff Jul 1, 1995; emergency rule filed Aug 9, 1995, 10:30 a.m.: 18 IR 3409; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2781; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: [20070404-IR-071070030RFA](#); emergency rule filed Mar 19, 2009, 11:07 a.m.: [20090401-IR-071090195ERA](#), eff Mar 12, 2009 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #09-195(E) was filed with the Publisher March 19, 2009.]; emergency rule filed Mar 23, 2010, 1:27 p.m.: [20100331-IR-071100170ERA](#); readopted filed Nov 26, 2013, 11:25 a.m.: [20131225-IR-071130345RFA](#); readopted filed Aug 28, 2019, 1:23 p.m.: [20190925-IR-071190319RFA](#); emergency rule filed Mar 2, 2021, 3:10 p.m.: [20210310-IR-071210076ERA](#); emergency rule filed Oct 6, 2022, 3:34 p.m.: [20221012-IR-071220305ERA](#))*

SECTION 3. [71 IAC 8-3-5](#) IS AMENDED TO READ AS FOLLOWS:

### **[71 IAC 8-3-5](#) Out of competition testing**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31-12](#)

Sec. 5. (a) Any horse eligible to race in Indiana under this subsection is subject to testing without advance notice for prohibited substances, practices, and procedures as specified in subsection (f), while the horse is located on the grounds of a racetrack under the jurisdiction of the commission, or stabled off association grounds while under the care or control of trainer or owner licensed by the commission under the restrictions listed in subsection (e). A horse is eligible to race in Indiana if it is listed:

- (1) on an owner's or trainer's license application;
- (2) on a stall application or nomination list; or
- (3) on the horse sign-in sheet at any time during the meet;

or has raced at any Indiana race meet during the preceding three hundred sixty-five (365) days. A horse shall be presumed eligible if it is a racing breed, at least two (2) years old, and an Indiana bred or sired horse. The owner of such an Indiana bred or sired horse may render the horse ineligible for the testing as described in this rule by indicating in writing the Indiana bred or sired horse is not intended to race in Indiana under subsection (b), provided that the owner of such an Indiana bred or sired horse provides written notice to the office of the commission thirty (30) days before the horse turns two (2) years old or within thirty (30) days after the owner acquires the horse. In this event, the horse shall be deemed ineligible for racing in Indiana as provided for in subsection (b).

(b) If a horse to be tested is not covered under subsection (a), the executive director or judges may nevertheless test any such horse as eligible to race in Indiana for prohibited substances, practices, and procedures specified in subsection (f), unless the owner or trainer or other authorized representative or designee of such horse immediately represents in writing that the horse is not intended to be, and will not be, raced in Indiana for a minimum of three hundred sixty-five (365) days. If the owner, trainer, or other authorized representative or designee so represents, the horse shall be deemed ineligible for racing in Indiana for no less than three hundred sixty-five (365) days from that date. This three hundred sixty-five (365) day ineligibility to race in Indiana shall follow the horse even if sold or transferred to another owner or trainer. An owner or trainer may, however, consent to the collection of a sample from a horse selected for testing under this rule, even if the horse is not presently intended to be raced in Indiana, and if such horse tests negative, it will remain eligible to race in Indiana.

(c) The executive director or judges may order any horse of a licensed trainer or owner to report to a track under the jurisdiction of the commission for out of competition testing. The trainer or owner is responsible to have the horse or horses available at the designated time and location. In the event that a horse is ordered to report to a track pursuant to the authority granted by this subsection, a licensed trainer or owner is entitled to reimbursement by the commission for mileage (at the current rate paid by the state of Indiana as specified in the current Indiana financial management circular) to and from the location where the horse was stabled when the horse was ordered to report to the track. Under no circumstances will a trainer or owner be entitled to reimbursement for mileage in excess of the actual mileage to the track from the place where the horse was stabled when ordered to report and from the track to the place where the horse is first stabled following the testing. The trainer or owner is not entitled to receive reimbursement from the commission for any other expense relating to any order under this subsection to report to a track for out of competition testing.

(d) The official veterinarian, a licensed veterinarian authorized by the commission, or a veterinary technician under the direct supervision of the official veterinarian or a licensed veterinarian authorized by the commission may take a urine, blood, or hair sample from a horse for testing as provided for in this section.

(e) Unless sample collection occurs on the grounds of a racetrack or other location within Indiana under the commission's jurisdiction, the commission's representatives may arrive at a reasonable time for the taking of blood, urine, or hair samples from an eligible horse, as defined in subsection (a) or (b), after announcing their presence at the premises where the horse or horses to be tested are located and showing their credentials to collect samples from the horse or horses selected for testing for prohibited substances, practices, and procedures as specified in subsection (f). The commission's representatives or designees will request to meet with the trainer or owner of the selected horse or horses. If neither is available, the collection will be deferred until the trainer or owner, or both, or their representative or designee, becomes reasonably available, but the collection must occur not later than one (1) hour after the commission's designee arrives at the premises in the case of an eligible horse under subsection (a), and not later than two (2) hours in the case of an eligible horse under subsection (b). If the collection does not occur within the time provided for in this subsection, any horse that would have been subject to testing and eligible to race in Indiana will be deemed to be ineligible for racing in Indiana pursuant to the provisions of subsections (a) and (b). In addition, the owner or trainer, or both, of the horses may be subject to any other sanctions allowed by Indiana law and regulations, including, but not limited to, a fine, suspension, or



summary suspension. It is a defense to any action brought against an owner or trainer, or both, for sanctions or as a result of any declaration a horse is ineligible because the sample collection did not occur within the time provided for by this subsection that good cause existed that prohibited the owner or trainer or their representative or designee from complying with the time limits set forth in this subsection. The owner or trainer or their representative or designee has the burden of proving the good cause defense by a preponderance of the evidence.

(f) Prohibited substances, practices, methods, and procedures are defined as the following:

(1) Blood doping agents, including, but not limited to, erythropoietin (EPO), darbepoetin, Oxyglobin, Hemopure, Aranesp, or any substance that abnormally enhances the oxygenation of body tissues.

(2) Gene doping agents or the nontherapeutic use of genes, genetic elements, or cells, or all, that have the capacity to enhance athletic performance or produce analgesia.

(3) Naturally produced venoms, synthetic analogues of venoms, derivatives of venoms, or synthetic analogues of derivatives of venoms.

(4) Substances capable of producing a repartitioning effect that are not FDA-approved for use in horses, including, but not limited to, ractopamine, zilpaterol, or any similar agent.

(5) Androgenic-anabolic steroids (AAS) other than endogenous concentrations of the naturally occurring substances as defined in [71 IAC 8-1-8](#) or AAS in a horse placed on the veterinarian's list in accordance with [71 IAC 8-1-8\(f\)](#).

(6) Cobalt in excess of the threshold provided in [71 IAC 8-1-9](#). In the event a sample from a horse results in cobalt in excess of the threshold, the horse shall be placed on the veterinarian's list until the concentration of cobalt in serum has fallen below the designated threshold, or until the conclusion of the race meet. However, horses testing at a concentration of one hundred (100) parts per billion shall be placed on the veterinarian's list for a minimum of thirty (30) days.

(7) Any substance or method not otherwise referenced in this rule, which is present ~~on~~ **in Version 8-5 11.1 of the Association of Racing Commissioners International Model Rules of Racing Annex I (Prohibited Substances), as revised by ARCI in July 2022, and any subsequent revision effective after said date, which are incorporated by reference herein, and copies of which are available at the commission office.**

(8) The presence of any substance at any time listed in subdivision (1), (2), (3), (4), (5), or (7) in an eligible horse, as defined in subsections (a) and (b), is prohibited and is a violation of this rule.

(9) The use of a prohibited method, as defined in Version 8-5 11.1 of the Association of Racing Commissioners International Model Rules of Racing Annex I (Prohibited Substances), **as revised by ARCI in July 2022, and any subsequent revision effective after said date, which are incorporated by reference herein, and copies of which are available at the commission office,** on an eligible horse, as defined in subsections (a) and (b), is prohibited and is a violation of this rule.

(g) The trainer or owner or his or her designees shall cooperate with the official veterinarian or any licensed veterinarian or licensed veterinary technician authorized by the commission or any commission employee by:

(1) assisting in the immediate location and identification of the eligible horse selected for out of competition testing; and

(2) providing a stall or safe location to collect the samples.

The executive director or judges may summarily suspend, exclude, or otherwise penalize any trainer or other authorized representative or designee who does not fully cooperate with a commission employee or representative in assisting and identifying an eligible horse or providing a safe stall to collect samples in a timely fashion. If any such person is summarily suspended, excluded, or otherwise penalized, she or he shall be entitled to a hearing in accordance with Indiana law and regulations. A summary suspension, exclusion, or sanctions for failure to cooperate shall not issue, however, if a horseman meets his or her burden to establish the good cause defense set forth under subsection (e). This provision does not apply to an owner or trainer who timely provides written notice under subsection (a) or (b) that a horse sought to be tested is not intended to be raced in Indiana and thereby renders the horse ineligible pursuant to subsection (b).

(h) The collection of blood or urine samples under this rule shall be collected as provided by [71 IAC 8-4-1](#) and shall be analyzed as follows:

(1) Approved primary laboratory for screening.

(2) Approved primary laboratory for confirmation.

(3) Approved laboratory for split sample testing as chosen by the owner or trainer.

The commission shall approve the laboratories for screening, confirmation, and split sample testing.

(i) The collection of hair samples under this rule shall be collected as provided by [71 IAC 8-4-1](#) and shall be analyzed as follows:

- (1) Approved primary laboratory for screening.
- (2) Approved primary laboratory for confirmation.

The commission shall approve the primary laboratories for screening and confirmation. A hair sample shall be ineligible for split sample testing.

(j) The licensed trainer of the horse is responsible for the condition of the horse sampled for an out of competition test while on the grounds of a licensed training facility or racetrack as follows:

- (1) If the horse is sampled while not on the grounds of a licensed facility or racetrack, then the licensed owner shall be presumed to be the responsible person unless the owner can establish by substantial evidence that another licensed person had accepted the responsibility for the care, custody, and control of the horse, making such person the responsible person.
- (2) If a horse sampled for an out of competition test was claimed, sold, or otherwise transferred during the time the substance giving rise to the positive test may have been administered, then the commission shall investigate to determine, by a preponderance of the evidence, the identity of the responsible person at the time such substance may have been administered.
- (3) If the commission cannot determine a responsible person, then the commission may deem the owner responsible and place the horse on the veterinarian's list for such time as is necessary to protect the integrity of racing.
- (4) A claimed horse is ineligible to be subjected to out of competition testing in the forty-eight (48) hours post claim unless the horse was subjected to post-race testing.

(k) In the absence of extraordinary mitigating circumstances, a minimum penalty of a ten (10) year suspension will be assessed for any violation of subsection (f)(1) and (f)(2). The Association of Racing Commissioners International, Inc. Uniform Classification Guidelines for Foreign Substances and Recommended Penalties and Model Rule will be considered for violations of subsection (f)(3), (f)(4), and (f)(5) with additional penalties for any drug not FDA approved for use in horses.

(Indiana Horse Racing Commission; [71 IAC 8-3-5](#); emergency rule filed Jul 23, 2007, 9:16 a.m.: [20070808-IR-071070461ERA](#), eff Jul 18, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-461(E) was filed with the Publisher July 23, 2007.]; errata filed Aug 14, 2007, 1:28 p.m.: [20070829-IR-071070461ACA](#); emergency rule filed Mar 12, 2008, 1:53 p.m.: [20080326-IR-071080191ERA](#), eff Mar 11, 2008 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #08-191(E) was filed with the Publisher March 12, 2008.]; emergency rule filed Mar 19, 2009, 11:07 a.m.: [20090401-IR-071090195ERA](#), eff Mar 12, 2009 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #09-195(E) was filed with the Publisher March 19, 2009.]; emergency rule filed Mar 3, 2011, 11:50 a.m.: [20110309-IR-071110100ERA](#); emergency rule filed Sep 10, 2012, 2:01 p.m.: [20120912-IR-071120525ERA](#); emergency rule filed May 7, 2014, 2:27 p.m.: [20140514-IR-071140143ERA](#), eff May 15, 2014; emergency rule filed Sep 15, 2014, 12:44 p.m.: [20140924-IR-071140352ERA](#), eff Jan 1, 2015; emergency rule filed Mar 16, 2015, 3:29 p.m.: [20150325-IR-071150071ERA](#); emergency rule filed Aug 29, 2018, 11:12 a.m.: [20180905-IR-071180370ERA](#); emergency rule filed Mar 15, 2019, 2:42 p.m.: [20190320-IR-071190167ERA](#); errata filed Mar 29, 2019, 10:12 a.m.: [20190403-IR-071190167ACA](#); emergency rule filed Dec 5, 2019, 1:56 p.m.: [20191211-IR-071190646ERA](#); emergency rule filed Jun 1, 2020, 1:57 p.m.: [20200610-IR-071200295ERA](#); emergency rule filed Oct 6, 2022, 3:34 p.m.: [20221012-IR-071220305ERA](#))

SECTION 4. [71 IAC 8.5-2-5](#) IS AMENDED TO READ AS FOLLOWS:

#### **[71 IAC 8.5-2-5](#) Out of competition testing**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31-12](#)

Sec. 5. (a) Any horse eligible to race in Indiana under this subsection is subject to testing without advance notice for prohibited substances, practices, and procedures as specified in subsection (f), while the horse is located on the grounds of a racetrack under the jurisdiction of the commission, or stabled off association grounds while under the care or control of a trainer or owner licensed by the commission under the restrictions listed in subsection (e). A horse is eligible to race in Indiana if it is listed:



- (1) on an owner's or trainer's license application;
- (2) on a stall application or nomination list; or
- (3) on the horse sign-in sheet at any time during the meet;

or has raced at any Indiana race meet during the preceding three hundred sixty-five (365) days. A horse shall be presumed eligible if it is a racing breed, at least two (2) years old, and an Indiana bred or sired horse. The owner of such an Indiana bred or sired horse may render the horse ineligible for the testing as described in this rule by indicating in writing the Indiana bred or sired horse is not intended to race in Indiana under subsection (b), provided that the owner of such an Indiana bred or sired horse provides written notice to the office of the commission thirty (30) days before the horse turns two (2) years old or within thirty (30) days after the owner acquires the horse. In this event, the horse shall be deemed ineligible for racing in Indiana as provided for in subsection (b).

(b) If a horse selected to be tested is not covered under subsection (a), the executive director or stewards may nevertheless test any such horse as eligible to race in Indiana for prohibited substances, practices, and procedures specified in subsection (f), unless the owner or trainer or other authorized representative or designee of such horse immediately represents in writing that the horse is not intended to be, and will not be, raced in Indiana for a minimum of three hundred sixty-five (365) days. If the owner, trainer, or other authorized representative or designee so represents, the horse shall be deemed ineligible for racing in Indiana for no less than three hundred sixty-five (365) days from that date. This three hundred sixty-five (365) day ineligibility to race in Indiana shall follow the horse even if sold or transferred to another owner or trainer. An owner or trainer may, however, consent to the collection of a sample from a horse selected for testing under this rule, even if the horse is not presently intended to be raced in Indiana, and if such horse tests negative, it will remain eligible to race in Indiana.

(c) The executive director or stewards may order any horse of a licensed trainer or owner to report to a track under the jurisdiction of the commission for out of competition testing. The trainer or owner is responsible to have the horse or horses available at the designated time and location. In the event that a horse is ordered to report to a track pursuant to the authority granted by this subsection, a licensed trainer or owner is entitled to reimbursement by the commission for mileage (at the current rate paid by the state of Indiana as specified in the current Indiana financial management circular) to and from the location where the horse was stabled when the horse was ordered to report to the track. Under no circumstances will a trainer or owner be entitled to reimbursement for mileage in excess of the actual mileage to the track from the place where the horse was stabled when ordered to report and from the track to the place where the horse is first stabled following the testing. The trainer or owner is not entitled to receive reimbursement from the commission for any other expense relating to any order under this subsection to report to a track for out of competition testing.

(d) The official veterinarian, a licensed veterinarian authorized by the commission, or a veterinary technician under the direct supervision of the official veterinarian or a licensed veterinarian authorized by the commission may take a urine, blood, or hair sample from a horse for testing as provided for in this section.

(e) Unless sample collection occurs on the grounds of a racetrack or other location within Indiana under the commission's jurisdiction, the commission's representatives may arrive at a reasonable time for the taking of blood, urine, or hair samples from an eligible horse, as defined in subsection (a) or (b), after announcing their presence at the premises where the horse or horses to be tested are located and showing their credentials to collect samples from the horse or horses selected for testing for prohibited substances, practices, and procedures as specified in subsection (f). The commission's representatives or designees will request to meet with the trainer or owner of the selected horse or horses. If neither is available, the collection will be deferred until the trainer or owner, or both, or their representative or designee, becomes reasonably available, but the collection must occur not later than one (1) hour after the commission's designee arrives at the premises in the case of an eligible horse under subsection (a), and not later than two (2) hours in the case of an eligible horse under subsection (b). If the collection does not occur within the time provided for in this subsection, any horse that would have been subject to testing and eligible to race in Indiana will be deemed to be ineligible for racing in Indiana pursuant to the provisions of subsections (a) and (b). In addition, the owner or trainer, or both, of the horses may be subject to any other sanctions allowed by Indiana law and regulations, including, but not limited to, a fine, suspension, or summary suspension. It is a defense to any action brought against an owner or trainer, or both, for sanctions or as a result of any declaration a horse is ineligible because the sample collection did not occur within the time provided for by this subsection that good cause existed that prohibited the owner or trainer or their representative or designee from complying with the time limits set forth in this subsection. The owner or trainer or their representative or designee has the burden of proving the good cause defense by a preponderance of the

evidence.

(f) Prohibited substances, practices, methods, and procedures are defined as the following:

- (1) Blood doping agents, including, but not limited to, erythropoietin (EPO), darbepoetin, Oxyglobin, Hemopure, Aranesp, or any substance that abnormally enhances the oxygenation of body tissues.
- (2) Gene doping agents or the nontherapeutic use of genes, genetic elements, or cells, or all, that have the capacity to enhance athletic performance or produce analgesia.
- (3) Naturally produced venoms, synthetic analogues of venoms, derivatives of venoms, or synthetic analogues of derivatives of venoms.
- (4) Substances capable of producing a repartitioning effect that are not FDA-approved for use in horses, including, but not limited to, ractopamine, zilpaterol, or any similar agent.
- (5) Androgenic-anabolic steroids (AAS) other than endogenous concentrations of the naturally occurring substances as defined in [71 IAC 8.5-1-8](#) or AAS in a horse placed on the veterinarian's list in accordance with [71 IAC 8.5-1-8\(f\)](#).
- (6) Cobalt in excess of the threshold provided in [71 IAC 8.5-1-9](#). In the event a sample from a horse results in cobalt in excess of the threshold, the horse shall be placed on the veterinarian's list until the concentration of cobalt in serum has fallen below the designated threshold, or until the conclusion of the race meet. However, horses testing at a concentration of one hundred (100) parts per billion shall be placed on the veterinarian's list for a minimum of thirty (30) days.
- (7) Clenbuterol in excess of the threshold provided in [71 IAC 8.5-1-4.2\(5\)](#) for a quarter horse. In the event a sample from a quarter horse results in clenbuterol in excess of the threshold, the quarter horse shall be placed on the veterinarian's list as provided in [71 IAC 8.5-8-1.5](#).
- (8) Albuterol in excess of the threshold provided in [71 IAC 8.5-1-4.2\(2\)](#) for a quarter horse. In the event a sample from a quarter horse results in albuterol in excess of the threshold, the quarter horse shall be placed on the veterinarian's list as provided in [71 IAC 8.5-8-1.5](#).
- (9) Any substance or method not otherwise referenced in this rule, which is present ~~on~~ **in Version 8-5 11.1 of the Association of Racing Commissioners International Model Rules of Racing Annex I (Prohibited Substances), as revised by ARCI in July 2022, and any subsequent revision effective after said date, which are incorporated by reference herein, and copies of which are available at the commission office.**
- (10) The presence of any substance at any time listed in subdivision (1), (2), (3), (4), (5), or (9) in an eligible horse, as defined in subsections (a) and (b), is prohibited and is a violation of this rule.
- (11) The use of a prohibited method, as defined in Version 8-5 11.1 of the Association of Racing Commissioners International Model Rules of Racing Annex I (Prohibited Substances), **as revised by ARCI in July 2022, and any subsequent revision effective after said date, which are incorporated by reference herein, and copies of which are available at the commission office,** on an eligible horse, as defined in subsections (a) and (b), is prohibited and is a violation of this rule.

(g) The trainer or owner or his or her designees shall cooperate with the official veterinarian, or any licensed veterinarian or licensed veterinary technician authorized by the commission, or any commission employee by:

- (1) assisting in the immediate location and identification of the eligible horse selected for out of competition testing; and
- (2) providing a stall or safe location to collect the samples.

The executive director or stewards may summarily suspend, exclude, or otherwise penalize any trainer or other authorized representative or designee who does not fully cooperate with a commission employee or representative in assisting and identifying an eligible horse or providing a safe stall to collect samples in a timely fashion. If any such person is summarily suspended, excluded, or otherwise penalized, she or he shall be entitled to a hearing in accordance with Indiana law and regulations. A summary suspension, exclusion, or sanctions for failure to cooperate shall not issue, however, if a horseman meets his or her burden to establish the good cause defense set forth under subsection (e). This provision does not apply to an owner or trainer who timely provides written notice under subsection (a) or (b) that a horse sought to be tested is not intended to be raced in Indiana and thereby renders the horse ineligible pursuant to subsection (b).

(h) The collection of blood or urine samples under this rule shall be collected as provided by [71 IAC 8.5-3-1](#) and shall be analyzed as follows:

- (1) Approved primary laboratory for screening.
- (2) Approved primary laboratory for confirmation.
- (3) Approved laboratory for split sample testing as chosen by the owner or trainer.

The commission shall approve the laboratories for screening, confirmation, and split sample testing.

(i) The collection of hair samples under this rule shall be collected as provided by [71 IAC 8.5-3-1](#) and shall be analyzed as follows:

- (1) Approved primary laboratory for screening.
- (2) Approved primary laboratory for confirmation.

The commission shall approve the primary laboratories for screening and confirmation. A hair sample shall be ineligible for split sample testing.

(j) The licensed trainer of the horse is responsible for the condition of the horse sampled for an out of competition test while on the grounds of a licensed training facility or racetrack as follows:

- (1) If the horse is sampled while not on the grounds of a licensed training facility or racetrack, then the licensed owner shall be presumed to be the responsible person unless the owner can establish by substantial evidence that another licensed person had accepted the responsibility for the care, custody, and control of the horse, making such person the responsible person.
- (2) If a horse sampled for an out of competition test was claimed, sold, or otherwise transferred during the time the substance giving rise to the positive test may have been administered, then the commission shall investigate to determine, by a preponderance of the evidence, the identity of the responsible person at the time such substance may have been administered.
- (3) If the commission cannot determine a responsible person, then the commission may deem the owner responsible and place the horse on the veterinarian's list for such time as is necessary to protect the integrity of racing.
- (4) A claimed horse is ineligible to be subjected to out of competition testing in the forty-eight (48) hours post claim unless the horse was subjected to post-race testing.

(k) In the absence of extraordinary mitigating circumstances, a minimum penalty of a ten (10) year suspension will be assessed for any violation of subsection (f)(1) and (f)(2). The Association of Racing Commissioners International, Inc. Uniform Classification Guidelines for Foreign Substances and Recommended Penalties and Model Rule will be considered for violations of subsection (f)(3), (f)(4), and (f)(5) with additional penalties for any drug not FDA approved for use in horses.

*(Indiana Horse Racing Commission; 71 IAC 8.5-2-5; emergency rule filed Jul 23, 2007, 9:16 a.m.: [20070808-IR-071070461ERA](#), eff Jul 18, 2007 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-461(E) was filed with the Publisher July 23, 2007.]; errata filed Aug 14, 2007, 1:28 p.m.: [20070829-IR-071070461ACA](#); emergency rule filed Mar 12, 2008, 1:53 p.m.: [20080326-IR-071080191ERA](#), eff Mar 11, 2008 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #08-191(E) was filed with the Publisher March 12, 2008.]; emergency rule filed Mar 19, 2009, 11:07 a.m.: [20090401-IR-071090195ERA](#), eff Mar 12, 2009 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #09-195(E) was filed with the Publisher March 19, 2009.]; emergency rule filed Mar 3, 2011, 11:50 a.m.: [20110309-IR-071110100ERA](#); emergency rule filed Sep 10, 2012, 2:01 p.m.: [20120912-IR-071120525ERA](#); emergency rule filed May 7, 2014, 2:27 p.m.: [20140514-IR-071140143ERA](#), eff May 15, 2014; emergency rule filed Sep 15, 2014, 12:44 p.m.: [20140924-IR-071140352ERA](#), eff Jan 1, 2015; emergency rule filed Mar 16, 2015, 3:29 p.m.: [20150325-IR-071150071ERA](#); emergency rule filed Aug 29, 2018, 11:12 a.m.: [20180905-IR-071180370ERA](#); emergency rule filed Mar 15, 2019, 2:42 p.m.: [20190320-IR-071190167ERA](#); errata filed Mar 29, 2019, 10:12 a.m.: [20190403-IR-071190167ACA](#); emergency rule filed Dec 5, 2019, 1:56 p.m.: [20191211-IR-071190646ERA](#); emergency rule filed Jun 1, 2020, 1:57 p.m.: [20200610-IR-071200295ERA](#); emergency rule filed Oct 6, 2022, 3:34 p.m.: [20221012-IR-071220305ERA](#))*

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